

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BRAULIO BATISTA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO. 2:08-5014

ORDER

HON. WILLIAM J. MARTINI

ORDER

On June 2, 2005, Petitioner was sentenced to 188 months imprisonment for his role in a conspiracy to traffic in narcotics. The sentence was affirmed by the Third Circuit. Petitioner, represented by the Federal Public Defender, filed a motion, citing *Booker* and *Kimbrough*, to reduce his sentence. The motion was granted, and his sentence was reduced from 188 to 151 months. Subsequently, on October 7, 2008, Petitioner filed a habeas petition. On January 29, 2009, this Court issued an opinion and order denying relief. On April 6, 2009, Petitioner filed a Motion to Reconsider. The motion to reconsider was denied. The denial was affirmed on appeal.

Petitioner has now filed a "Petition." His Petition does not appear to be a habeas motion under Section 2255. Indeed, he has asks for no specific relief at this juncture other than to preserve his rights in light of expected future developments in sentencing law relating to cocaine. Because there does not appear to be anything for the Court to do, the Petition will

be **DENIED** without prejudice to refiling should Congress enact a retroactive statute affecting prior sentences relating to “crack” cocaine.

DATE: May 19, 2011

s/ William J. Martini
William J. Martini, U.S.D.J.